

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	CC Docket No. 96-115
Implementation of the)	
Telecommunications Act of 1996)	CC Docket No. 96-149
)	
Telecommunications Carriers' Use of)	CC Docket No. 00-257
Customer Proprietary Network)	
Information and Other Customer)	
Information)	

BELLSOUTH COMMENTS

BellSouth Corporation, on behalf of BellSouth Telecommunications, Inc. and its wholly owned affiliated companies ("BellSouth"), submits these comments in response to the Wireline Competition Bureau's recent *Notice* in the above referenced proceeding.¹

The Commission has asked for information regarding the use of CPNI in various contexts. The first involves a situation where a carrier sells its assets or goes out of business as a result of merger, asset sale, or bankruptcy. In such a situation, the *Notice* queries whether, the exiting carrier should be able to use CPNI for transition of its customers to another carrier. An answer to this question is not necessary, because the Commission has already addressed this issue in its authorization and verification ("slamming") rules.

The slamming rules were implemented to protect customers from having their service changed from one carrier to another without the customer's permission. Thus, a carrier cannot change a customer's service unless the carrier first obtains the customer's explicit permission

¹ *Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, et al.*, CC Docket Nos. 96-115 *et al.*, *Third Report and Order and Third Further Notice of Proposed Rulemaking*, FCC 02-214 (rel. July 25, 2002) ("*Notice*").

either through a written letter of agency (“LOA”) or verbal acknowledgement followed by verification of such acknowledgement by an independent third party. These rules work fine for individual customer acquisition; however, they present a problem when one carrier attempts to transfer a large base of customers, *e.g.*, through merger, sale, or bankruptcy, to another carrier. Realizing the hardship a carrier faced of either obtaining authorization and verification of each individual customer or seeking a waiver of the slamming rules when one carrier transferred a customer base to another carrier, the Commission issued its slamming *Streamlining Order*.² In the *Streamlining Order*, the Commission establishing notice procedures for an acquiring carrier to follow when acquiring a customer base through a bulk transfer (“Bulk Transfer Rules”). The Bulk Transfer Rules, set forth at 47 C.F.R. § 64.1120(e), require the acquiring carrier to send notice to each affected customer that the service will be transferred to the acquiring carrier. The terms and conditions for the new service must be included in the notice in sufficient detail. Additionally, the notice must inform the customer that any freeze the customer had on the service has been lifted and the customer must contact the acquiring carrier if the customer wants to have the freeze re-established. Once this notice process is complete, the customer has been transferred to the acquiring carrier and any CPNI may now be used by the acquiring carrier to provide service to the customer.

Accordingly, if the customers are transferred to a new carrier pursuant to these rules, there is no need to change the CPNI rules. Just as the CPNI of a customer is transferred to the

² *In the Matter of 2000 Biennial Review – Review of Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers; Implementation of Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policy and Rules Concerning Unauthorized Changes of Consumers Long Distance Carrier*, CC Docket Nos. 00-257 and 94-129, *First Report and Order* in CC Docket No. 00-257 and *Fourth Report and Order* in CC Docket No. 94-129, 16 FCC Rcd 11218 (2001) (“*Streamlining Order*”).

new carrier when that carrier obtains the customer individually through marketing techniques, the CPNI for the entire customer base is transferred to the acquiring customer on a bulk transfer. If the Commission believes that the customer should be notified of the transfer of CPNI, the Commission should amend the streamlining notice rules to include such notification in the notice that the acquiring carrier sends to the customer pursuant to 47 C.F.R. 64.1120(e). Amendment of the CPNI rules, however, is unnecessary.

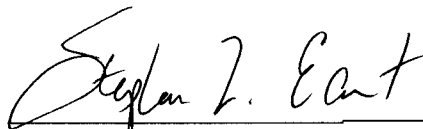
There are many instances where the acquiring carrier cannot send pre-notice to the customers as required by the Bulk Transfer Rules. The most common example of this situation is where one carrier is having financial difficulty and cannot continue as a going concern. The financially troubled carrier cannot usually continue serving customers for the 30-day notice period, as required by the Bulk Transfer Rules, before transferring its customers to the acquiring carrier. In such situations, the acquiring carrier typically seeks a waiver from the Bulk Transfer Rules. BellSouth supports the Commission changing the Bulk Transfer rules to eliminate the notice requirements of the acquiring carrier when a customer base is transferred pursuant to a state commission order, which is often the case for local service of financially distressed carriers, or in a bankruptcy proceeding. The acquiring carriers should not be burdened with notice requirements in those situations when the goal of all involved – the transferring carrier, the acquiring carrier, and the relevant regulatory commissions – should be is to avoid customers' loss of service. Just as with slamming rules, CPNI requirements should be modified to allow for a smooth transition of customers when such transition takes place in emergency situations that limit a transferring carrier's ability to continue as a going concern.

The *Notice* also seeks comments regarding “proper application of section 222 to DSL providers.”³ The *Notice* goes on to ask “[w]ill this applicability change if the Commission adopts the tentative conclusions in the Wireline Broadband NPRM.”⁴ BellSouth believes the Commission first should settle the Wireline Broadband NPRM before making decisions regarding how other dockets could potentially impact the various outcomes of the Wireline Broadband NPRM. It seems premature, at best, to have parties provide comments on all potential outcomes of the broadband proceeding. BellSouth believes the more efficient approach would be to have interested parties provide comments on the final outcome of the broadband proceeding.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

By:



Stephen L. Earnest
Richard M. Sbaratta

Its Attorneys

BellSouth Telecommunications
Suite 4300
675 West Peachtree Street, N. E.
Atlanta, Georgia 30375
(404) 335-0711

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³ *Notice* ¶ 146.
⁴ *Id.*

CERTIFICATE OF SERVICE

I do hereby certify that I have this 21st day of October 2002 served the parties of record to this action with a copy of the foregoing **BELLSOUTH COMMENTS** via electronic mail, addressed to the parties listed below:

Magalia Roman Salas
Office of the Secretary
Federal Communications Commission
445 12th Street, S. W.
Room TW-B204
Washington, DC 20554

Qualex International
Portals II
445 12th Street, SW
Room CY-B402
Washington, DC 20554


Lynn Barclay